

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

Pamela Bryan, a.k.a. Pamela Jones,

Petitioner

v.

Social Security Administration.

Docket No. C-10-578

Decision No. CR2151

Date: June 11, 2010

**DECISION**

I sustain the authority of the Social Security Administration (SSA) to garnish the wages of Petitioner, Pamela Bryan, a.k.a. Pamela Jones, to collect an unpaid debt from Petitioner to SSA in the principal amount of \$291.67, plus whatever interest, penalties, and fees that may have accrued.

**I. Background**

This case is brought pursuant to 31 U.S.C. § 3720D(b)(5), which entitles an individual to a hearing regarding administrative wage garnishment concerning the following issues:

- (A) the existence or the amount of the debt, and
- (B) in the case of an individual whose repayment schedule is established other than by written agreement . . . the terms of the repayment schedule.

Petitioner requested a hearing to challenge the existence of a debt that SSA allegedly owed her. She has not contested the terms of a repayment schedule.

I directed the parties to file pre-hearing exchanges, consisting of briefs and any proposed exhibits. SSA filed a brief and 20 proposed exhibits, which it identified as SSA Ex. 1 – SSA Ex. 20. Petitioner filed a brief without proposed exhibits.

Neither SSA nor Petitioner provided me with the direct testimony of proposed witnesses. Consequently, I conclude that no need exists for an in-person hearing in this case. I receive into evidence SSA Ex. 1 – SSA Ex. 20.

## **II. Issue, findings of fact and conclusions of law**

### **A. Issue**

The issue in this case is whether Petitioner is indebted to SSA in the principal amount of \$291.67, plus whatever interest, penalties, and fees that may have accrued.

### **B. Findings of fact and conclusions of law**

The exhibits that SSA submitted establish the following facts. SSA employed Petitioner. On June 26, 2001, SSA issued an emergency replacement pay check to her totaling \$616.67, based on her claim that she had not received original pay check. SSA Ex. 3 at 1. On June 29, 2001, SSA issued a second replacement check to Petitioner, also in the amount of \$616.67. SSA Ex. 4 at 1. SSA subsequently recovered the entire \$616.67 amount of the first replacement check. SSA Ex. 5. That left outstanding the amount of the second replacement check.

SSA then attempted to collect the amount of the second replacement check by deducting \$25 per pay period from Petitioner's wages beginning with the pay period ending on December 15, 2001. SSA Ex. 6 – SSA Ex. 18. However, Petitioner was separated from her employment with SSA on May 17, 2002, before the entire debt amount was repaid. The uncollected balance of the \$616.67 overpayment was \$291.67. SSA Ex. 6 – SSA Ex. 18.

On July 5, 2002, SSA sent a letter to Petitioner informing her of the debt. SSA Ex. 1. The letter contained an error in that it incorrectly referred to the total indebtedness as \$355.20, as opposed to \$291.67. SSA sent a second letter to Petitioner on June 9, 2003. SSA Ex. 2. Petitioner did not respond to either of these letters. SSA then referred Petitioner's debt to the Department of the Treasury (DOT) for collection through DOT's Debt Management Services. On October 21, 2009, that agency sent a letter to Petitioner demanding repayment of the debt plus interest, penalties, and fees that had accrued. SSA Ex. 19 at 2. Petitioner responded by asserting, in effect, that she owed no money to SSA. *Id.* at 3.

The evidence that SSA offered is persuasive evidence of the existence of a debt owed to SSA by Petitioner in the amount stated. That evidence shifts the burden to Petitioner to prove that no debt exists or that the amount of the debt is incorrect. 31 C.F.R. § 285.11(f)(8)(ii).

Petitioner has offered no evidence to rebut that which SSA has submitted. She has submitted no exhibits or documentation whatsoever to show that the checks were not issued to her or that she repaid the amount of these checks. Her argument, essentially, is to contend that she was unaware of the existence of any debt at the time of her separation from SSA. Petitioner's brief at 1.

That assertion is belied by evidence that SSA offered, which establishes that Petitioner was told about the existence of her debt virtually at the same time that she was separated from SSA and that she was told a second time shortly thereafter. SSA Ex. 1; SSA Ex. 2. Furthermore, a claim of lack of awareness of a debt is no defense, even if it is true. Petitioner is responsible for repayment of her debt whether or not she was aware of it at the time of her separation from SSA.

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/s/  
Steven T. Kessel  
Administrative Law Judge